

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

DATHAN BROOKS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO: 3:18-cv-00307
	)	
KARL STORZ ENDOSCOPY-AMERICA, INC.	)	
COMPANY OF AMERICA,	)	
	)	
Defendant.	)	

**FIRST AMENDED COMPLAINT**  
**COUNT I**

**Retaliatory Discharge**

Now comes the plaintiff, Dathan L. Brooks, by his attorneys, Bonifield & Rosenstengel, P.C., and for his cause of action against the defendant, Karl Storz Endoscopy America Inc., respectfully represents unto the Court as follows:

1. The Plaintiff is a citizen of Madison County, Illinois.
2. **The Defendant , Karl Storz Endoscopy America Inc. is a Corporation incorporated in the State of California with its principal place of business in California and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.**
3. On May 27, 2015 and for a period of time prior thereto the plaintiff was an employee of the defendant Karl Storz Endoscopy America Inc. and was in all respects performing the duties of his employment and while on the job on that date the plaintiff was involved in an automobile accident in which he was injured.
4. The injuries sustained by the plaintiff, Dathan L. Brooks rendered him unable to perform his employment and he was temporarily totally disabled for a period of time.

5. As a result of that disability and the medical bills he incurred the plaintiff became entitled to and did apply for certain benefits under the Illinois Workers' Compensation Act.

6. The Illinois Workers' Compensation Act 820ILCS305/4(h) makes it unlawful for an employer to discharge or in other way discriminate against an employee because of the exercise of his or her rights under the Act and it became the duty of the defendant Karl Storz Endoscopy America Inc., as the employer to comply with the Act, but that duty notwithstanding the defendant discharged the plaintiff from its employment on September 23, 2015 as a result of him seeking rights under the Workers' Compensation Act.

7. As a direct and proximate result of the unlawful discharge on the part of the defendant the Plaintiff suffered injuries and damages as hereinafter setforth :

- a. He has suffered a loss of income and benefits in the past and is likely to suffer loss of income and benefits in the future;
- b. He has suffered emotional distress in the past and is likely to suffer emotional distress in the future;

**WHEREFORE**, the plaintiff, Dathan L. Brooks, prays for judgment against the defendant, Karl Storz Endoscopy America, Inc., for a fair and just award **in excess of Seventy-Five Thousand Dollars (\$75,000) exclusive of costs plus costs of this suit.**

## COUNT II

### Wilful and Wanton Conduct

Now comes the plaintiff, Dathan L. Brooks, by his attorneys, Bonifield & Rosenstengel, P.C., and for his cause of action against the defendant, Karl Storz Endoscopy America Inc., hereinafter referred to as Karl Storz respectfully represents unto the Court as follows:

1. The Plaintiff is a citizen of Madison County, Illinois.

2. **The Defendant , Karl Storz Endoscopy America Inc. is a Corporation incorporated in the State of California with its principal place of business in California and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.**

3. On May 27, 2015 and for a period of time prior thereto the plaintiff was an employee of the defendant Karl Storz Endoscopy America Inc. and was in all respects performing the duties of his employment and while on the job on that date the plaintiff was involved in an automobile accident in which he was injured.

4. The injuries sustained by the plaintiff, Dathan L. Brooks rendered him unable to perform his employment and he was temporarily totally disabled for a period of time.

5. As a result of that disability and the medical bills he incurred the plaintiff became entitled to and did apply for certain benefits under the Illinois Workers' Compensation Act.

6. The Illinois Workers' Compensation Act 820ILCS305/4(h) makes it unlawful for an employer to discharge or in other way discriminate against an employee because of the exercise of his or her rights under the Act and it became the duty of the defendant Karl Storz Endoscopy America Inc., as the employer to comply with the Act, but that duty notwithstanding the defendant discharged the plaintiff from its employment on September 23, 2015 as a result of him seeking rights under the Workers' Compensation Act.

7. As a direct and proximate result of the unlawful discharge on the part of the defendant he Plaintiff suffered injuries and damages as hereinafter setforth :

- a. He has suffered a loss of income and benefits in the past and is likely to suffer loss of income and benefits in the future;
- b. He has suffered emotional distress in the past and is likely to suffer emotional distress in the future;

8. With full knowledge of the provisions of the Illinois Workers' Compensation Act the defendant knowingly wilfully, wantonly and with the disregard of welfare and rights of the plaintiff discharged the plaintiff from its employment by way of punishment for the continued pursuit of his rights under the Illinois Workers' Compensation Act.

9. As a direct and proximate result of the foregoing wilful and wanton act on the part of the defendant the Plaintiff has suffered damages as reflected above.

**WHEREFORE**, the plaintiff, Dathan L. Brooks, prays for judgment against the defendant, Karl Storz Endoscopy America, Inc., for a fair and just award as sought in Count I of this Complaint and a further sum by way of punitive damages in an amount **in excess of Seventy Five Thousand Dollars (\$75,000) exclusive of costs plus costs of this suit for this Count II**

Dathan L. Brooks,

/s/Jon E. Rosenstengel  
Jon E. Rosenstengel

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